IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.845 OF 2004

PETITIONER : Mukesh Kumar,
S/o Shri Gangadhar Satnami,
Aged about 34 years,
R/o Village Chhote Sipat, P.S. : Malkharoda, Tehsil & District: Janjgir Champa, (C.G.).

P. R. No. 8251/04
Presented by Shri Shivraj Singh
dated 17.03.04

- V E R S U S -

RESPONDENTS :

1. State of Chhattisgarh,
Through : Secretary, Department of Panchayat, D.K.S. Building,
Mantralaya, Raipur (C.G.)

2. Director, Panchayat,
Government of Chhattisgarh,
Raipur (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC—78

(16)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 845/2004 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	05.04.2004 Shri Shivraj Singh, Counsel for the petitioner. Shri Akhil Agrawal, P.L. for the State on advance copy. I.A.No. 1876/2004 for urgent hearing is allowed. Heard. Counsel for the petitioner submitted that the petitioner who was declared elected Member of Jila Panchayat, Janjgir Champa, on a complaint made by one Mannulal Sidhar, that the petitioner has been convicted for the offence punishable under Section 302 read with Section 34 of IPC for life imprisonment the Director Panchayat has started proceedings to disqualify him. The contention is that Mannulal Sidhar has no right at all to make the complaint as it was the State case. Counsel for the petitioner has not joined the complainant Mannulal Sidhar as party-respondent in this petition. It is submitted that the matter is pending before Director, Panchayat, Raipur. Section 36 (2) of the **Panchayat Raj Adhiniyam** under which the proceedings have been initiated is relevant here and quote below :	

-2-

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(17)

मामला क्रमांक.....**सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

36. **Disqualification for being office bearer of Panchayat.**-(1) No person shall be eligible to be an office-bearer of Panchayat who—

(a) xxx xxx xxx

(b) xxx xxx xxx

"(2) If any person having been elected as an office bearer of Panchayat:--

(a) subsequently becomes subject to any of the disqualification mentioned in sub-section (1) and such disqualification is not removable or being removable is not removed;

(b) acccpts cmploymcnt as lcgal practitioncr against the Panchayat;

(c) absents himself from three consecutive meetings of the Panchayat or its Committee or does not attend half the number of meetings held during the period of six months without the leave of the Panchayat;

he shall, subject to the provisions of sub-section (3), cease to be such office bearer and his office shall become vacant:

Provided that where an application is made by an office bearer to the Panchayat for leave to absent himself under clause (c) and the Panchayat fails to inform the applicant of its decision on the application within a period of one month from the

GT 0.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर (18)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

date of receipt of the application, the leave applied for, shall be deemed to have been granted by the Panchayat.

The petitioner was convicted by the Court of Addl. Sessions Judge, Sakti, Bilaspur in Sessions Trial No.161 of 1992 on 9th June 1994. The factum of conviction is not disputed. It is submitted that thereafter the applicant applied for grant of bail. He was released on bail. Subsequently, only the sentence has been suspended. However in view of the conviction under section 302/34 IPC, the disqualification has occurred. Such disqualification can be brought to the notice by any one. The fact that the applicant has been convicted under section 302/34 IPC is not disputed. This can be brought to the notice to the authorities and the complainant Mannulal Sidhar has done it. It cannot be said that the proceedings started by the authorities cannot continue. In fact, it was the duty of the petitioner himself who ought to have pointed out regarding his conviction and he ought not to have suppressed this fact. He having suppressed the fact of conviction and when a citizen has brought it to the notice of the Court and the authorities are proceeding with the matter in accordance with the provisions and have given notice to him, there is nothing wrong.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	In the opinion of this Court, no case is made out for interference by this Court for exercising extraordinary jurisdiction under Articles 226/227 of the Constitution of India. There is no merit in the petition. The petition fails and is dismissed. The petition fails and is dismissed. Consequently, M.W.P.No.761/2004 for interim relief stands disposed of. Sd/- Fakhruddin Judge	